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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/688,501
Filing Date: October 16, 2000
Appellant(s): JOSHI, SHRIDHAR P.

Daniel G. Nguyen
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 11, 2006 appealing from the Office action mailed November 11, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,409,602	Wiltshire et al.	6-2002
6,001,016	Walker et al.	12-1999
6,508,709	Karmarkar	1-2003
6,508,710	Paravia et al.	1-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 37-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltshire et al. (US 6,409,602) in view of Paravia et al. (US 6,508,710).

3. Wiltshire et al discloses the following:

> Accessing via a remote terminal (client/terminal), a gaming site (310 of figure 3) on a global computer network (column 8, lines 15-34) connected to the remote terminal (client/terminal), selecting a game of chance from a plurality of gaming machine located at a gaming establishment for remote play (figures 4b-9D), the remote terminal being located outside the gaming establishment, placing a wager for

playing the selected game and receiving randomly-generated text or graphical outcome data at the remote terminal for the selected game the outcome data being generated by one of the plurality of gaming machines at the gaming establishment and relayed to the gaming site through a gaming server connected to the gaming site, in which the examiner interprets the server/host containing the different programs and data of the different chance game to be a functional equivalent to placing a wager for playing the selected game and receiving randomly-generated text or graphical outcome data at the remote terminal for the selected game the outcome data being generated by one of the plurality of gaming machines at the gaming establishment and relayed to the gaming site through a gaming server connected to the gaming site (column 7, lines 7-56 and figures 2-3) as recited in claims 37-38.

Wiltshire et al does expressly disclose the following:

Providing via the remote terminal, personal identification information to the gaming site as recited in claims 37-38.

Paravia et al teaches the following:

Providing via the remote terminal, personal identification information to the gaming site (column 6, lines 49-55 and item 142 of figure 2) as recited in claims 37-38. By having providing personal identification information to the gaming site, one of ordinary skill in the art would provide a verification and permission to game players that are permitted to play.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Wiltshire et al to include personal

identification information to the gaming site as taught Paravia et al to provide a verification and permission to game players that are permitted to play.

4. Claims 39-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiltshire et al. (US 6,409,602) in view of Walker et al. (US 6,001,016).

5. Wiltshire et al discloses the following:

Establishing a communication link between the remote terminal (client/terminal) and a gaming site (310 of figure 3) on a global computer network (column 8, lines 15-34), the gaming site in communication with a gaming server (server/host), selecting a gaming machine (figures 4B-9D) at the gaming establishment using the remote terminal, making a wager to play the selected gaming machine, receiving outcome data, including game outcome at the remote terminal resulting from a play of the gaming machine (figures 4B-9D), and generating a payout if the game outcome meets predetermined criteria (figure 4B, column 7, lines 7-56, and column 8, lines 15-34) as recited in claim 39.

The game outcome resulting from the server initiating game play on the selected gaming machine (column 8, lines 42-65) as recited in claim 50.

The remote computer having a microprocessor, memory connected to the microprocessor and including instruction s for controlling the microprocessor, and the microprocessor being operative with the instructions in the memory to receive information identifying a plurality of local gaming machine located within the gaming establishment from a gaming server, receive a text or graphical outcome resulting from a local play of each of the selected gaming machines and generate payout if the

outcome meets predetermined criteria (figures 4B-9D, column 6, line 44 – column 7, line 6, column 7, lines 7-56, and column 8, lines 15-34) as recited in claim 52.

The gaming server having means for receiving information identifying a plurality of gaming machines (figures 4B-9D) each engaged in play within the gaming establishment, means for receiving a text or graphical outcome resulting from a ply of the selected gaming machines and means for generating a payout if the outcome meets predetermined criteria (figures 4B-9D, column 6, line 44 – column 7, line 6, column 7, lines 7-56, and column 8, lines 15-34) as recited in claim 62.

Wiltshire et al does not expressly disclose the following:

The gaming server collecting outcome data from the gamine machines located inside the gaming establishment as recited in claims 39, 52 and 62.

The outcome data having information identifying the value of the payout and simulate a display of the game outcome at the remote location as recited in claims 40 and 59.

The outcome data to simulate a display of the game outcome on the remote terminal as recited in claim 41.

The selected gaming machine is a slot machine wherein the outcome data includes reel position as recited in claims 42, 48, 53, and 60.

The selected gaming machine is a video poker machine including a display for displaying a poker hand as recited in claims 43 and 58.

The receiving outcome data includes receiving outcome data from a plurality of gaming machine form remote play as recited in claim 44.

The outcome data includes a gaming machine identifier and gaming machine type as recited in claim 45-46 and 55-56.

The outcome data including receiving player preferences as recited in claims 47 and 57.

A player identifier and transmitting the player identifier for identification of the player as recited in claims 49 and 61.

Walker et al teaches the following:

The gaming server collecting outcome data from the gaming machines located inside the gaming establishment (figure 1) as recited in claims 39, 52 and 62.

The outcome data having information identifying the value of the payout and simulate a display of the game outcome at the remote location (column 5, lines 33-37) as recited in claims 40 and 59.

The outcome data to simulate a display of the game outcome on the remote terminal (column 5, lines 33-37) as recited in claim 41.

The selected gaming machine is a slot machine wherein the outcome data includes reel position (column 5, lines 33-37) as recited in claims 42, 48, 53-54, and 60.

The selected gaming machine is a video poker machine including a display for displaying a poker hand (column 5, lines 33-37) as recited in claims 43 and 58.

The receiving outcome data includes receiving outcome data from a plurality of gaming machine form remote play (column 6, lines 45-56) as recited in claim 44.

The outcome data includes a gaming machine identifier and gaming machine type (figure 5 and column 6, lines 31-44) as recited in claim 45-46 and 55-56.

The outcome data including receiving player preferences (column 6, lines 8-30) as recited in claims 47 and 57.

A player identifier and transmitting the player identifier for identification of the player (column 6, lines 8-30) as recited in claims 49 and 61.

The outcome results from the manual game play on the selected gaming machine (summary) as recited in claim 51. By transmitting data from the gaming machine located in the gaming establishment, one of ordinary skill in the art would provide a system that does not require human intervention and live video transmission of the game being played.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Wiltshire et al to include the gaming server collecting outcome data from the gamine machines located inside the gaming establishment, the outcome data having information identifying the value of the payout and simulate a display of the game outcome at the remote location, the outcome data to simulate a display of the game outcome on the remote terminal, the selected gaming machine is a slot machine wherein the outcome data includes reel position, the selected gaming machine is a video poker machine including a display for displaying a poker hand, the receiving outcome data includes receiving outcome data from a plurality of gaming machine form remote play, the outcome data includes a gaming machine identifier and gaming machine type, the outcome data including receiving player preferences, and a player identifier and transmitting the player identifier for identification of the player as taught by Walker et al to provide a

system that does not require human intervention and live video transmission of the game being played.

(10) Response to Argument

Appellant contends that Wiltshire and Paravia do not teach or suggest remote play of a game of chance from a plurality of "gaming machines" in a gaming establishment. Appellant further contends that the "host/server" computer executing casino software is not functionally equivalent to "gaming machines" in a gaming establishment.

The examiner respectfully disagrees. Wiltshire discloses a virtual casino where a player can choose which type of game to play as shown in figures 4B to 9D. The gaming establishment is the virtual casino on the server/host computer (110) having a plurality of gaming machines being played remotely from the client/terminal computers as shown in figure 1. Gaming programs and the associated gaming display generation programs are executed entirely on the serve/host compute, with only input wagering and output screen display related operations being executed on the client/terminal computers. The communication (130) from the client/terminal computers to the server/host computers (110) are achieved through any type of local area, wide area or global communication pathways, including the Internet and the World Wide Web.

In response to applicant's arguments that the host/server computer executing casino game programs is not a functional equivalent to a gaming machine in a gaming establishment, it is noted that a gaming machine at a gaming establishment is just a computer that runs a program either on the gaming machine or communication to a server like in Walker (6,001,016), Karmarkar (6,508,709), and Paravia (6,508,710) to name a few. Since a physical embodiment of various games have been re-implement into microcomputer-based video gaming stations for the last 20 years

(Wiltshire-background), it is obvious to a person of ordinary skill in the art would recognize that gaming machine can be re-implemented into a video gaming system, which is nothing more than a cabinet having a monitor, a program either on the gaming machine or communication to a server, and some means of accepting and dispensing wagers. This reimplementation has been motivated by reliability, manufacturability, and ultimately, total cost of maintaining the computer (video) gaming station during its useful life. Computer systems having been devised where a cluster of gaming stations are controlled by a central computer. The central computer can "download" and thereby change the game program being executed by a gamin station or even allow players at different gaming stations to play against one another. When a gaming machine calculates the game results on the gaming machine at a gaming site, the functional equivalent to that would be a gaming machine running a program and the calculations are carried out on a sever located at a gaming a site and routed back to the gaming machine at the gaming site. The only difference is the gaming results are calculated on the server and communicated back to the gaming machine instead of calculating the gaming results at the gaming machine itself. If you take the same computer based video gaming machine and place that video game program on a home PC, the only things that have changed are how the program (results and calculations) are being communicated and how wagers are accepted and payouts awarded. Therefore, a host/server computer executing a casino game program is functionally equivalent to a gaming machine in a gaming establishment.

Appellant contends that Wiltshire and Walker fail to teach or suggest selecting a gaming machine within a gaming establishment from "a remote terminal located outside the gaming establishment."

In response to appellant's arguments, the recitation a gaming machine with a gaming establishment from a remote terminal located outside the gaming establishment has not been given

patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). The claimed invention as disclosed by Wiltshire recites establishing a communication link between the remote terminal (client/terminal) and a gaming site (310 of figure 3) on a global computer network (column 8, lines 15-34), the gaming site in communication with a gaming server (server/host), selecting a gaming machine (figures 4B-9D) at the gaming establishment using the remote terminal, where the selection of a game like video poker, keno, slots, big bertha, black etc., is selecting a gaming machine at the gaming establishment using the remote terminal. Wiltshire further discloses making a wager to play the selected gaming machine, receiving outcome data, including game outcome at the remote terminal resulting from a play of the gaming machine (figures 4B-9D), and generating a payout if the game outcome meets predetermined criteria (figure 4B, column 7, lines 7-56, and column 8, lines 15-34). Wiltshire discloses a gaming site (website) in figure 3, item 310. Wiltshire discloses in col. 8, lines 15-34 that a user accesses a website (gaming site) using a web browser such as Internet Explorer, Netscape Navigator or the like and downloads the program from the website (gaming site). The gaming data or information to the client/terminal is executed from the server/host computer, which updates the state (randomly-generated or graphical outcome data) of the game accordingly (col. 7, lines 7-44 and figure 2). Wiltshire further discloses connecting to the host/server computer from a client/terminal computer, which the client/terminal is a remote terminal located outside the gaming establishment by communication means of any local area, wide

area or global communication pathways, including the Internet and the World Wide Web. Walker was cited to teach the elements not expressly disclosed by Wiltshire as noted in the office action.

Appellant contends that Wiltshire and Walker fail to teach or suggest "relaying outcome data through a gaming site."

In response to appellant's arguments, the recitation of "relaying outcome data through a gaming site" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Wiltshire does disclose a gaming site (website) in figure 3, item 310. Wiltshire further discloses in col. 8, lines 15-34 that a user accesses a website (gaming site) using a web browser such as Internet Explorer, Netscape Navigator or the like and downloads the program from the website (gaming site). The gaming data or information to the client/terminal is executed from the server/host computer, which updates the state (randomly-generated or graphical outcome data) of the game accordingly (col. 7, lines 7-44 and figure 2). The program that gets downloaded to the client/terminal is nothing more than a user interface that connects to the server through the different communication means like the Internet and the World Wide Webb to name a few. The data coming from the sever/host through the Internet and/or the World Wide Webb to the client/terminal is the same as the outcome data being relayed through the gaming site to the remote terminal. Regardless of how the data is relayed through the gaming site or directly to the remote terminal, the data being relayed does not change the outcome of the game.

Appellant contends that Walker fails to teach or suggest outcome data that includes a "gaming machine type," as required by claims 46 and 56.

The Examiner respectfully disagrees. Walker teaches in figure 5, col. 6, lines 31-44 that multiple records are kept for each record pertaining to the remote play session of a particular player, as identified by a remote wagering terminal ID number, number of slot machines to be accessed, slot machine type, bet per pull, outcomes credit balance etc. Walker further teaches that the outcome data includes all game activity-related information, which includes the type of game being played or game type. For example, if a user picks a slot machine to play, then the outcome data of slot machine being displayed on the screen would be the outcome of results of the spinning reels, win or loss, which is the gaming machine type.

Appellant contends that Walker fails to teach or suggest outcome data that includes "player preferences," as required by claims 47 and 57.

The Examiner respectfully disagrees. Walker teaches that the outcome data includes all game activity-related information, which also includes the player preferences. Walker further teaches that a player enter play preferences at a remote wagering terminal and the remote wagering terminal transmits the play preference to a network sever that stores the play preferences. Based upon the play preferences, the network server identifies the outcome data from one or more slot machines and transmits this outcome data from those slot machines to the remote wagering terminal. In other words, if the player chooses to play one or more gaming machines at the same time the outcome data will transmit the outcome data of one or more gaming machines based on the player preference.

Appellant contends that Walker fails to teach or suggest a gaming sever initiating game play, as required by claims 50.

The Examiner respectfully disagrees. Walker was not used to disclose a gaming sever initiating game play. Wiltshire was used to disclose the game outcome resulting from the server initiating game play on the selected gaming machine on col. 8, lines 42-65.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Alex P. Rada

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